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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,032	01/19/2001	Gary L. Bennis	5437ep	7928
7590		03/17/2008		
Carl L. Johnson Jacobson and Johnson Suite 285 One West Water Street St. Paul, MO 55107-2080			EXAMINER ROWAN, KURT C	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 03/17/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/766,032

Applicant(s)

BENNIS, GARY L.

Examiner

Kurt Rowan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 22-27, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 22-24, 26-27, 31 is/are rejected.
- 7) ☒ Claim(s) 25 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

**/Kurt Rowan/
DETAILED ACTION**

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 23 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Riead (US 4,461,114).

The patent to Riead, in reference to claims 18, 19, 22, and 29, shows a bobber in Fig. 1 having a main body 2 providing a buoyant force to normally maintain the bobber main body in a floating condition and a spring 64 having a spring constant that is about equal to the spring constant of the bobber in water or the total force to compress the spring with respect to the bobber main body is approximately equal to the total force to gradually submerge the bobber main body and the resiliently displaceable member 62 to allow the simultaneous submersion of the bobber main body and the displacement of the member with respect to the bobber main body so as to provide gradual resistance as disclosed in column 5, lines 1-25. Further see column 4, lines 27-36 for a discussion of the operation of the float and how it is designed to be pulled under water by a small force exerted by a fish taking the bait which would be equal to the water displacement volume of the portion of the bobber above the water level. In reference to claim 31,

Riead shows all of the elements recited with the resiliently displaceable member 62, 72 being elongated and extending through the main bobber body in that the word "through" is taken to mean --in the mist of--. In reference to claim 23, Riead shows a compression springs 64, 76 and another compression spring 34. In reference to claim 25, Riead shows a stop cap 56. In reference to claim 26, Riead shows a fixed stop 70 connected to a lower end of the resiliently displaceable member.

3. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Ingram (US 2500078).

The patent to Ingram shows a fishing bobber having a bobber main body 10 which provides a buoyant force to normally maintain the bobber main body in a floating condition. Ingram shows a member 14-15-16 extending through the bobber main body and visible above the bobber main body. This member is resiliently and gradually displaceable in a body of water with respect to the bobber main body in response to a force on the member as disclosed in column 2, lines 20-30. It appears that the a complete displacement of the member to a down position results in the complete submersion of the bobber main body in the body of water and the gradual displacement of the member with respect to the bobber main body so as to provide gradual resistance as tension on the fishing line increases.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riead (US 4461114).

The patent to Riead shows a fishing bobber and has been discussed above. In reference to claim 24, Riead shows compression springs 34, 76, but it would have been obvious to employ a tension spring since merely a simple substitution of one known element for another is contemplated to obtain predictable results. In reference to claim 27, Riead shows lamp 22 in holder or base 20. It is not clear if the socket 20 could function as a chemiluminescence capsule holder, but it would have been obvious to employ a chemiluminescent capsule holder since merely the simple substitution of one known device for another to yield predictable results is contemplated as stated in the recent Supreme Court **KSR** case. See *KSR Int'l v. Teleflex Inc.*, 82USPQ2d 1385 (US 2007).

Allowable Subject Matter

6. Claim 18 is allowed.
7. Claims 25 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 12/13/2007 have been fully considered but they are not persuasive. Applicant argues that to overcome Riead, claim 31 recites that the resiliently displaceable elongate member extends through the main body. Given broadest reasonable interpretation, "through" has been taken to mean –in the mist of— such as in " a walk through the flowers" rather than " from one side to the other".

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Jonassen, and Skvier show other fishing bobbars or casting floats.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kurt Rowan
Primary Examiner
Art Unit 3643

KR

/Kurt Rowan/

Primary Examiner, Art Unit 3643